



# Bristol Bay Native Corporation

*Enriching Our Native Way of Life*

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January 4, 2012

Lisa Jackson  
USEPA Headquarters  
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1200 Pennsylvania Avenue, N. W.  
Mail Code: 1101A  
Washington, DC 20460

Dennis McLerran  
USEPA REGION 10  
1200 Sixth Avenue  
Mail Code: RA-140  
Seattle, WA 98101

Re: Clean Water Act 404(c) and Bristol Bay, Alaska

Dear Administrator Jackson and Regional Administrator McLerran:

Thank you again for undertaking the Bristol Bay Watershed Assessment. I was pleased recently to see that EPA agrees with us that Bristol Bay supports a “one-of-a-kind fishery on a global scale.”

I write to provide you with more information regarding BBNC’s request that EPA use its Clean Water Act 404(c) authority to carefully tailor restrictions on the discharge of dredged or fill material from the mining of the Pebble deposit.\* Attached to this letter is a report written by mining and wetland experts at the request of BBNC and Trout Unlimited. After thoroughly examining the mining plans made public to date by the mine’s proponents, the authors found that such operations would have unacceptable adverse effects on fisheries and other area resources. They therefore conclude that EPA should use its authority to proactively impose restrictions on regulated discharges of dredged or fill material (*i.e.*, mine waste) that would result from mining the Pebble deposit. The restrictions they recommend include:

- 1) prohibit the discharge of dredged or fill material to wild salmon spawning and rearing habitat;
- 2) prohibit the discharge of dredged or fill material that does not meet testing requirements demonstrating that such material is not toxic to aquatic life; and
- 3) prohibit the discharge of dredged or fill material where runoff or seepage would require treatment in perpetuity.

These restrictions are rooted in well-established precedents and long-standing practices and policies within the CWA 404 program, and thus routinely are applied to 404 permits in the Pacific Northwest and elsewhere. Asserting these restrictions proactively will protect important waters of the United States, as well as the social, cultural and economic foundations of the Bristol Bay region—foundations that rely on clean water. Simply put, proactive 404(c) action furthers the goals of the Clean Water Act. It would provide certainty to industry and the public as to what will be required of any proposal to mine the Pebble deposit. This is a certainty that will also bring a huge savings of time and money to all the stakeholders, as it would avoid a protracted permitting process regarding restrictions that would ultimately and necessarily be incorporated into any permit.

This is a matter that is also of profound importance to BBNC’s shareholders. Our shareholders have historic cultural, subsistence and economic ties to the lands and waters that would be impacted by any attempts to mine the Pebble deposit. For these reasons, our shareholders recognize that every effort must be made to ensure that these waters be adequately protected. In a recent survey of our

shareholders, 81% of the respondents support the Corporation's request to EPA to exercise its 404(c) authority and carefully tailor a prohibition on the proposed Pebble mine. This is an opinion we ask the EPA to honor. BBNC's shareholders are the indigenous people of the region to whom the United States has a trust responsibility,

We look forward to working with you as you conduct the important public review and input component of the Watershed Assessment process, and as you make subsequent decisions about the continued protection of the national interest in clean water in Bristol Bay.

Sincerely,

A handwritten signature in black ink, appearing to read "Jason Metrokin". The signature is fluid and cursive, with a large initial "J" and a distinct "M".

Jason Metrokin  
President and CEO

\* The Pebble project proponent describes its project as including the Pebble deposit and surrounding claims ([http://www.northerndynastyminerals.com/ndm/PD\\_EL.asp](http://www.northerndynastyminerals.com/ndm/PD_EL.asp)). We therefore define the Pebble deposit to include the adjacent claims.